SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
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Government of Sikkim

The Sikkim Municipalities Act, 2007

(Act No. 5 of 2007)

GOVERNMENT OF SIKKIM

The Sikkim Municipalities Act, 2007

(Volume No. 1 of 2)

Part I on "Preliminary",
Part II on "Constitution and Government",
Part III on "Financial Management of Municipalities" and
Part IV on "Municipalities Revenue" for the proposed Bill.

The Sikkim Municipalities Act, 2007

CONTENTS

PART I

PRELIMINARY

CHAPTER I

Sections		Page Nos.
1.	Short title, extent and commencement	2
2.	Definitions	2-8

PART II

CONSTITUTION AND GOVERNMENT

Chapter II

Constitution of Municipal Areas and Classification of Municipalities

3.	Declaration of intention to constitute a municipal area	9
4.	Publication of Declaration	10
5.	Consideration of objection	10
6.	Constitution of Municipal area	10
7.	Classification of municipal areas	10
8.	Power of State Government to determine the number of wards in municipal areas	11
9.	Power to abolish or alter limits of municipal area	11
10.	Power to exempt municipal area from operation of any provision of the Act unsuited thereto	12

Sections		Page Nos.
	Chapter III	
	Municipality and Municipal Councillors	
11.	The Municipality	12
12.	Constitution of Minicipality	12
13.	Composition of Municipality	13
14.	Election of Councillors	14
15.	Reservation of seats of Councillors and Chief Councillor	14
16.	Oath of allegiance to the Constion of India and oath of secrecy	14
17.	Term of Office of Councillors	15
18.	Disqualification for being a Councillor, if employed in a Municipality	15
19.	Remuneration and allowances of Councillors	15
	Chapter IV	
	Municipal Authorities and Executive Authority	
20.	Municipal authorities and Executive Authority	15
21.	Executive and financial powers of Municipality to be exercised by executive Authority	16
22.	Execution of works, sanction of estimates, and contracts	16
23.	Election of Chief Councillor and term of his office	18
24.	Chief Councillor	18
25.	Deputy Chief Councillor	18
26.	Area Shaba	19
27.	Constitution of Subject Committee, Ad-hoc Committee, or joint Committee	19
28.	First meeting of Municipality	19

Sections		Page Nos.
	Chapter V	
	Organizational Structure of Municipality	
29.	Statutory Officers of Municipality, Establishment of Municipality and schedule of posts	20
30.	Payment of Salaries and allowances to Officers and other employees	21
	Chapter VI	
	Functional Domain of Municipalities	
31.	Core Municipal services and other functions	22
32.	Functions assigned by Government	23
33.	Other Functions	23
	Chapter VII	
	Conduct of Business	
34.	Transaction of business etc. by Municipality	23
35.	Councillor having pecuniary interest in any contract etc with Municipality and disclosure of such interest	24
	Chapter VIII	
	Power of State Government to give Direction to, and to Control and Dissolve, Municipality	
36.	Power of State Government to give direction and to control	24
37.	Power of State Government to dissolve Municipality	25
38.	Effect of dissolution	25

Sections		Page Nos.
	PART III	
	FINANCIAL MANAGEMENT OF MUNICIPALITIES	
	Chapter IX	
	Municipal Fund	
39.	Municipal Fund	26
40.	Grants and other financial assistance from State Government	26
41.	Revenue account and capital account to be maintained separately	26
42.	Application of Municipal Fund	27
43.	Payments not to be made out of Municipal Fund unless covered by budget grant	27
44.	Procedure when money, not covered by budget grant is paid	28
45.	Temporary payment from Municipal Fund for works urgently required in the public interest	28
46.	Power to incur expenditure beyond the limits of Municipality	28
47.	Exclusive use of Municipal Fund for particular purpose	28
48.	Operation of accounts	28
49.	Investment of surplus moneys	29
	Chapter X	
	Budget Estimates	
50.	Budget estimate to be prepared separately for Revenue Account and Capital Account	29
51.	Preparation of budget estimate for Revenue Account of Municipality	29
52.	Report on services provided at subsidized rate	30
53.	Sanction of budget estimate of Municipality	30
54.	Power to alter budget grant	31

Sections		Page Nos.
	Chapter XI	
	Accounts and Audit	
55.	Maintenance of accounts	31
56.	Preparation of Municipal Accounting Manual	31
57.	Financial statement	31
58.	Balance sheet	31
59.	Submission of financial statement and balance sheet to Auditor	31
60.	Power of Auditor	32
61.	Audit report	33
62.	Placing of audited accounts before Municipality	33
63.	Submission of audited accounts	34
64.	Power of State Government to enforce order upon audit report	34
65.	Special audit	34
66.	Internal audit	34
67.	Municipal Accounts Committee	34
	Chapter XII	
	Borrowings	
68.	Power of Municipality to raise loan	36
69.	Power of Municipality to open credit account with bank	37
70.	Power of Municipality to raise short-term loan	37
71.	Power of Municipality to reserve for investment a portion of debentures issued for raising loan.	37
72.	Manner of repayment of loans	37
73.	Form and effect of debentures	37
74.	Annual statement	38

Sections		Page Nos.
75.	Issue of Municipal Bonds for development of urban infrastructure	38
76.	Credit rating of Municipal Bonds	38
77.	Pledging of municipal assets as security for Municipal Bonds	38
78.	Debt Service Reserve Fund	38
79.	Limit to encumbrances through future debt	38
80.	Use of proceeds from Municipal Bonds	38
	Chapter XIII	
	Municipal Property	
81.	Power to acquire and hold property	39
82.	Vesting of property	39
83.	Acquisition of property by Municipality by agreement, exchange, lease, grant, etc.	39
84.	Compulsory acquisition of land	40
85.	Special provision for acquisition of lands adjoining streets	40
86.	Disposal of property	40
87.	Inventory of properties of Municipality	41
	PART IV	
	MUNICIPAL REVENUE	
	Chapter XIV	
	Sources of Internal Revenues	
88.	Implementation of report of Finance Commission	42
89.	Internal revenues of Municipality	42
90.	Power to levy taxes	42

Sections		Page Nos.
91.	Power to levy user charges	43
92.	Power to levy fees and fines	43
93.	Levy of surcharge on tax or user charge or fee	44
94.	Power to levy development charge	45
95.	Realisation of tax, cess, fee, etc. under any other law	45

Chapter XV

Tax on Lands and Buildings and Related Taxes

A. Property tax on lands and buildings, surcharges and rebates

96.	Property tax on lands and buildings	45
97.	Property tax on Central Government properties	46
98.	Rate of property tax on any land, hut, or building in a slum	46
99.	Surcharge	46
100.	Additional surcharge	47
101.	Exemption of lands and buildings from property tax	47
102.	Exemption of diplomatic or consular mission of a foreign State from payment of any rate, tax, or fee	47

B. Classification of lands and buildings and determination of annual values

103.	Classification of lands and buildings and fixation of annual values	48
104.	Procedure for hearing objection to classification of lands and buildings	48
105.	Validity of unit area values and periodic revision thereof	48
106.	Locational characteristics	49
107.	Structural characteristics	49
108.	Annual value of land and building	49
109.	Deduction from annual value for repair etc. of building	50

Sections		Page Nos.
110.	Determination of annual value of building where land is exempted from property tax	50
111.	Self-assessment	50
112.	Unit of assessment	50
	C. Municipal Valuation Committee and Municipal Assessment Tribunal	
113.	Constitution of Municipal Valuation Committee	51
114.	Terms and conditions of service of Chairperson and other members	52
115.	Functions of Municipal Valuation Committee	52
116	Constitution of Municipal Assessment Tribunal	53
	D. Assessment	
117.	Submission of returns	53
118.	Periodic assessment	54
119.	Period of validity of assessment	54
120.	Revision of assessment	55
121.	Public notice and inspection of assessment list	56
122.	Objection	57
123.	Appointment of officer to hear objection	57
124.	Hearing of objections	57
125.	Appeal	58
126.	Final valuation	58
127.	Municipal Assessment Book	58

Sections		Page Nos.
	E. Incidence of Property Tax	
128.	Property tax and surcharge thereon to be first charge on lands and buildings and movables	59
129.	Incidence of property tax	59
130.	Incidence of surcharge	59
131.	Apportionment of surcharge	59
132.	Recovery of property tax on lands and buildings from occupiers	59
133.	Payment of property tax on land and building	60
134.	Self-assessment and submission of return	60
135.	Levy of surcharge on transfer of lands and buildings	62
136.	Tax on deficits of parking spaces in non-residential buildings	62
137.	Water tax	62
138.	Fire tax	62
	Chapter XVI	
	Tax on Advertisements Other Than Advertisements in Newspapers, and Licence Fees for Advertisement Spaces	
139.	Prohibition of advertisements without permission in writing, of Chief Municipal Officer	62
140.	Licence for use of site for purpose of advertisement	63
141.	Tax on advertisement	64
142.	Permission of Chief Municipal Officer to be void in certain cases	65
143.	Licence for use of site for purpose of advertisement to be void in certain cases	65
144.	Presumption in case of contravention	65
145.	Power of Chief Municipal Officer in case of contravention	65

Sections		Page Nos.
146.	Removal of poster, hoarding, etc	66

Chapter XVII

Other Taxes and Tolls

147.	Surcharge on tax on entertainment	66
148.	Tax on tourists and congregations	66
149.	Toll on roads	67
150.	Toll on bridges	67
151.	Toll on heavy trucks and buses	67

Chapter XVIII

Payment and Recovery of Taxes

A. Recovery of Taxes by Municipality

152.	Manner of recovery of taxes under the Act	68
153.	Time and manner of payment of taxes	68
154.	Presentation of Act	68
155.	Regulations regarding payment and recovery of tax	69
156.	Requirement of payment of rent by occupier towards property tax on land or building due to Municipality	69
157.	Recovery of property tax on lands and buildings or any other tax or charge when owner of land or building is unknown or ownership is disputed	70
158.	Power of Chief Municipal Officer to prosecute or to serve notice of demand	70
159.	Cancellation of irrecoverable dues	70

Sections Page Nos.

B. Recovery of Tax on Lands or Buildings by Person Primarily Liable to pay to the Municipality

160. Apportionment of property tax on lands and buildings by person primarily liable to pay 71

161. Mode of recovery 71

Chapter XIX

Commercial Projects

162. Commercial projects and receipts there from. 71

CONTENTS

PART V

URBAN ENVIRONMENTAL INFRASTRUCTURE AND SERVICES

Chapter XX

Water-supply

A. General

Sections		Page Nos.
163.	Definitions	72

B. Functions in Relation to Water-supply

164.	Duty of Municipality to supply water	72
165.	Supply of water for domestic purposes	73
166.	Supply of water to connected premises	73
167.	Supply of water for non-domestic purposes	73
168	Payment for water supplied	74
169.	Notice of stoppage of water-supply	74
170.	Water-supply through hydrants, stand-posts and other conveniences	74
171.	Provision for fire hydrants	74

C. *Notified Water Sources, Natural Watercourses, Works for Supply of Water and Distribution Networks*

172.	Vesting of water sources and natural watercourses in Municipality and protection of-jhoras	75
173.	Limits *of johras*	75
174.	Works to be undertaken for supply of water	75
175.	Management of waterworks	76

Sections Page Nos.

176. Purity of water for domestic purpose 76

177. Water not to be wasted 76

D. Water-supply Mains and Pipes

178. Power to lay mains, service pipes, etc 76

179. Prohibition for laying water-pipes and construction of latrines and cesspools 77

180. Power in relation to water-supply 77

181. Application for supply of water 77

182. Power to turn off supply of water to premises 78

E. Water Meters and Recovery of Charges

183. Power to provide water meters and to recover charges 78

184. Entrustment of operation and maintenance of waterworks and billing and collection of charges 78

F. Offences in Relation to Water-supply

185. Liability for offence in relation to water-supply 78

G. *Harvesting of Rain Water*

186. Provision of rain water harvesting structure 78

Chapter XXI

Drainage and Sewerage

A. Functions in Relation to Drainage and Sewerage

187. Municipality to provide drainage, sewerage and outfall 78

188. Provision of means for disposal of sewage 79

B. Proprietary Rights of Municipality in Respect of Drains and Sewage Disposal Works

189. Vesting of public drains and sewage disposal works 79

Sections		Page Nos.
190.	Right of owner or occupier to obtain sewer connection	80
191.	Power to make over to, or to take over from, statutory authority drainage and sewerage works	80
	C. Municipal Drains	
192.	Power of making drains	81
193.	Sewage and rain water drains to be separate	81
194.	Alteration, discontinuance, cleansing, etc. of drains	81
	D. Drains of Private Streets and Drainage of Premises	
195.	Powers in relation to drainage	82
196.	Premises not to be erected without drains	82
	E. Trade Effluent	
197.	Special provisions relating to trade effluent	83
198.	Special provisions regarding drainage of trade effluent	83
	Chapter XXII	
	Other Provisions Relating to Water-supply, Drainage and Sewerage	
199.	Connection with waterworks mains and drains not to be made without permission	84
200.	Buildings and private streets not to be erected or constructed over watermains, or on municipal drains, without permission	84
201.	Building plan not to be sanctioned unless plan relating to water-supply etc. is in conformity with rules and regulations	84
202.	Maps of underground watermains, supply pipes, drains, etc	84
203.	Rights of user of property for aqueducts, lines, etc.	84
204.	Power of owner of premises to place pipes and drains through land belonging to other persons	85
205.	Power of Chief Municipal Officer to affix shafts etc. for ventilation of drain or cesspool and testing of drain	87

Sections		Page Nos.
206.	Power of Chief Municipal Officer to execute work after giving notice to person liable	87
207.	Work to be done by licensed plumber	87
208.	Power of access to waterworks, and drainage and sewerage installations	88
209.	Prohibition of certain acts	88
210.	Charges for sewerage services and levy of sewerage tax	89
211.	Entrustment of operation and maintenance of sewerage works and billing and collection of sewerage tax	90
212.	Power of State Government to exercise control over imperfect, inefficient or unsuitable waterworks, drainage works, or sewerage works	90
213.	Municipal Water-supply, Drainage and Sewerage Code	91

Chapter XXIII

Solid Wastes

A. Functions in Relation to Solid Wastes Management

214.	Duty of Municipality in respect of solid wastes management and handling	91
215.	Entrustment of management and handling of solid wastes and billing and collection of charges	92
216.	Functions of Municipality	92
217.	Solid wastes to be property of Municipality	92
218.	Appointment of places for disposal and final disposal of solid wastes	93

B. Collection and Removal of Solid Wastes

219.	Duty of owners and occupiers of premises to store solid wastes at source of generation	93
220.	Duty of Cooperative Housing Society, Apartment Owners' Association, etc.	93

O

Sections		Page Nos.
233.	Power to regulate excavations	98
234.	Power to require trees, hedges, etc., to be trimmed	99
	B. Regulation of Public Bathing, Washing, etc.	
235.	Regulation of public bathing etc.	99
	C. Public Conveniences	
236.	Public latrines and urinals "	99
	D. General Provisions	
237.	Prohibition of nuisances	100
238.	Control of pollution	100
239.	Power to require wells, tanks, etc., to be rendered safe	101
240.	Quarrying, blasting, cutting timber, or carrying on building operation	101
241.	Power to stop improper use of land or building	101
242.	Polluters to pay	102
	Chapter XXVII	
	Restraint of Infection	
243.	Municipality to prevent and check dangerous disease	102
244.	Power of Chief Municipal Officer to inspect any place and take measures to prevent spread of dangerous disease	102
245.	Power of Chief Municipal Officer to cleanse, disinfect, destroy, or control places of infection	103
246.	Special measures in case of outbreak of dangerous or epidemic diseases	104
247.	Means for disinfection	104
248.	Special conveyance for carrying infected persons	105
249.	Prohibitions	105

Sections Page Nos.

Chapter XXVIII

Disposal of the Dead

250. Acts prohibited in connection with disposal of dead 105

251. Registration of places for disposal of the dead 107

252. Disposal of dead animals 107

Chapter XXIX

Forests in Municipal Area, Parks, Gardens, Trees, and Playgrounds

253. Municipality to implement schemes 108

254. Harvesting of rain water 108

PART VII

REGULATORY JURISDICTION

Chapter XXX

Development Plan and Local Area Plan

255. Representation in District Planning Committee 109

256. Municipality to implement development plans 109

257. Local Area Plan, context, and objectives 109

Chapter XXXI

Public Streets

A. General Powers

258. Maintenance and classification of public streets 111

259. Naming and numbering of streets 111

260. Unique premises number 112

Sections		Page Nos.
261.	Rights of way for public utilities	113
262.	Maps of public utilities	113
263.	Power to prohibit use of public streets for certain kind of traffic	113
	B. Regular Line of Street	
264.	Defining regular line of street	113
	C. *Obstruction on Streets*	
265.	Temporary erection on streets during festival	114
	Chapter XXXII	
	Regulation of Building Activities	
266.	Definitions	114
267.	Registration of Advocates, Architects, Construction Engineers, and Structural Engineers	117
268.	Duties and responsibilities of Advocate on Record Architect on Record, Construction Engineer on Record, and Structural Engineer on Record	118
269.	De-registration of registered Advocate, registered Architect, registered Construction Engineer, and registered Structural Engineer	120
270.	Obligation of person undertaking building activity	120
271.	Bar to undertake building activity without building permit or on order of Chief Municipal Officer suspending building activity	121
272.	Building permit to be granted by the Architect on Record in certain cases and his responsibility to file documents and deposit fees with the Municipality	122
273.	Building permit to be granted by Chief Municipal Officer in all other cases of building activity	122

Sections		Page Nos.
274.	Deemed refusal to grant building permit in case of failure of Chief Municipal Officer to dispose of application for building permit and right of applicant to appeal to State Government	122
275.	Automatic lapse of building permit on change of right and title of land or building or terms and conditions of lease of land or building or on person on record ceasing to function as such for whatever reasons, and grant of fresh building permit by new Architect on Record or by Chief Municipal Officer, as the case may be	122
276.	Commencement and completion of building activities within specified time	123
277.	Revocation of building permit for violation of provisions on building activity (after giving the person who has the right and title over the plot or the lessee in respect of the plot an opportunity of being heard), and grant of fresh building permit on compliance therewith	123
278.	Stoppage of building activity on lapse or revocation of building permit	123
279.	Issue of building use permit by the Architect on Record and the Chief Municipal Officer on completion, or part completion, of building activity	123
280.	Revocation of building use permit	123
281.	Power to inspect building and land to ensure compliance of the provisions on building activities and building use	124
282.	Power to give order to vacate or to demolish building and to take other action in case of violation of provisions on building activities and building use, or in case of building posing danger to life and property	125
283.	Grant of variance, and constitution of Empowered Committee and manner of functioning thereof	125
284.	Listing of heritage building etc., constitution of Heritage Conservation Committee, and manner of functioning thereof	125
285.	Appeal against certain orders or notices issued under the Act	126
286.	Appeal against orders of State Government	127
287.	Power of State Government to make rules	127

Sections		Page Nos.
	Chapter XXXIII	
	Municipal Licences	
288.	Premises not to be used for non-residential purpose without municipal licence	128
289.	Registers to be maintained	129
290.	Municipal licence for private markets	129
291.	Municipal licence for sale of flesh, fish or poultry	130
292.	Prohibition of unlicensed activities	130
293.	Power to stop use of premises used in contravention of licences	131
294.	Power to seize food or drug etc.	131
	Chapter XXXIV	
295.	Appointment of Chief Registrar, Registrar, etc. of births and deaths	131
296.	Duties of Registrars of births and deaths	132
297.	Register books to be maintained	132
298.	Registration of births and deaths	132
299.	Registration of name of child or of alteration of name	132
300.	Correction of errors, or cancellation of entries, in registers of births or deaths	133
301.	Information of births	133
302.	Information respecting finding of new born child	134
303.	Information regarding deaths	134
304.	Medical practitioner to certify cause of death	134
305.	Duties of police in regard to unclaimed corpses	134
306.	Sextons etc., not to bury etc. corpse	134

Sections		Page Nos.
	Chapter XXXV	
	Disaster Management	
307.	Management of natural or technological disasters	134
	PART VIII	
	POWERS, PROCEDURES, OFFENCES AND PENALTIES	
	Chapter XXXVI	
	Procedure	
	A. Licences and Permissions	
308.	Signature, conditions, duration, suspension, revocation, etc., of licences and permissions	135
	B. Entry and Inspection	
309.	Power of entry	136
310.	Power to enter land or adjoining land in relation to any work	137
311.	Breaking into building	137
312.	Time of making entry	137
313.	Consent ordinarily to be obtained	138
314.	Regard to be had to social or religious usages	138
315.	Prohibition of obstruction or molestation in execution of work	138
	C. *Public Notices and Advertisements*	
316.	Public notices how to be made known	138
317.	Newspapers in which advertisements or notices to be published	138
	D. Evidence	
318.	Proof of consent etc. of Municipality, Chief Councillor, Chief Municipal Officer, etc.	139

Sections		Page Nos.
	E. Notices etc.	
319.	Notices etc. to fix reasonable time	139
320.	Signature on notices etc. may be stamped	139
321.	Notices etc. by whom to be served or issued	139
322.	Service of notices etc.	140
	F. Enforcement of Orders to Execute Works etc.	
323.	Time for complying with requisition or order, and power of Chief Municipal Officer to enforce requisition or order on default	141
324.	Submission of objections to comply with notice	142
	G. *Recovery of Expenses*.	
325.	Power of Municipality to enter into agreement for payment of expenses in instalments	143
326.	Power of Municipality to declare certain expenses to be improvement expenses	143
327.	Improvement expenses, how recoverable and by whom payable	143
328.	Recovery of improvement expenses paid by occupier	144
329.	Right of owner or occupier to redeem charge for improvement expenses	144
330.	Execution of work by occupier on the failure of owner	144
331.	Relief to receivers, agents and trustees	144
	H. Payment of Compensation	
332.	General power of Municipality to pay compensation	145
333.	Compensation to be paid for damage to property of Municipality	145
	I. Recovery of Expenses or Compensation in Case of Disputes	
334.	Reference by Municipality to Civil Court in certain cases of recovery of expenses	145

Sections		Page Nos.
335.	Application to Civil Court in certain cases of payment of expenses or compensation	145
336.	Recovery of expenses or compensation determined under section 335	145
337.	Recovery of expenses or compensation by suit in court	146
	J. Recovery of Certain Dues	
338.	Recovery of certain dues of Municipality	146
	K. Obstruction of Owner by Occupier	
339.	Application to Civil Court by owner when occupier prevents from complying with Act etc.	146
	L. Proceedings before the Civil Court	
340.	Procedure in Civil Court	146
341.	Fees in proceeding before Civil Court	147
342.	Repayment of half of fees on settlement before hearing	147
	M. Municipal Courts and Proceeding before Municipal Courts	
343.	Creation of Municipal Courts for trial of offences under the Act	148
344.	Certain offences to be cognizable	148
345.	Power of Municipal Court to hear cases in absence of accused summoned to appear	148
346.	Limitation of time for prosecution	148
347.	Complaint regarding nuisance and removal thereof	149
348.	Power of Municipal Court to direct payment of fine and demolition of unlawful works	149
	N. Legal Proceedings	
349.	Power to institute etc. legal proceeding and to obtain legal advice	150
350.	Notice, limitation, and tender of amends in suits against Municipality etc.	151
351.	Indemnity	151

Sections		Page Nos.
	O. Powers and Duties of Police Officers	
352.	Co-operation of police	152
353.	Power of police to arrest offenders	152
	P. General Provisions	
354.	Validity of notice and other document	153
355.	Admissibility of document or entry as evidence	153
356.	Evidence of officer or employee of Municipality	153
357.	Prohibition against obstruction of Chief Councillor or any municipal authority etc.	153
358.	Prohibition against removal of mark	154
359.	Prohibition against removal or obliteration of notice	154
360.	Prohibition against unauthorized dealings with public place or materials	154
361.	Liability for loss, waste or misapplication of money or property of Municipality	154
362.	Councillors and officers and other employees of Municipality to be public servants	154
363.	Other laws not to be disregarded	155
	Chapter XXXVII	
	Rules and Regulations	
364.	Power to make rules	155
365.	Power to amend Schedule	155
366.	Power to make regulations	155
367.	Conditions precedent to making of regulations	155
368.	Regulations to be subject to approval of State Government	156
369.	Power of State Government to cancel or modify regulations	156
370.	Supplemental provisions respecting regulations	156

Sections		Page Nos.
371.	Penalty for breach of regulation	156
372.	Rules and regulations to be available for inspection and purchase	157
373.	Doubts as to powers, duties or functions of municipal authorities	157

Chapter XXXVIII

Offences and Penalties

374.	Punishment for certain offences	157
375.	Punishment for acquiring share or interest etc. with Municipality	158
376.	Fine for not paying tax under chapter XVI	158
377.	Fine for putting building to any use other than that for which a licence has been granted	158
378.	Penalty for obstructing contractor	158
379.	Penalty for causing damage to property belonging to Municipality	158
380	Encroachment on streets	159
381.	Punishment of imprisonment in default of payment of fine	159
382.	General penalty	159
383.	Offences by companies	159
384.	Prosecution	160
385.	Compounding of offences	160

Chapter XXXIX

Supplemental Provisions

A. Extension of Act to Other Areas and Inclusion or Exclusion of Areas within or from the Municipal Area

386.	Power of State Government to notify intention to extend Act to other areas	160

B. Miscellaneous and Transitory Provisions

387.	Provisions of the chapter to override other provisions	160
388.	Removal of difficulties	160
389.	Repeal	161
390.	Transitory provision	161

GOVERNMENT OF SIKKIM

The Sikkim Municipalities Act, 2007

(Volume No. 2of 2)

PART V	on "Urban Environment Structures and Services",
PART VI	on "Urban Environmental Management, Community Health, and Public Safety",
PART VII	on "Regulatory Jurisdiction" and
PART VIII	on "Powers, Procedures, Offences and Penalties" for the Proposed Bill.

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No. 5/LD/P/07 **Date: 17.05.2007**

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 16th day of April, 2007 is hereby published for general information:-

The Sikkim Municipalities Act, 2007

(Act No. 5 of 2007)

AN

ACT

to provide for the municipal governance in the State of Sikkim in conformity with the provisions of the Constitution of India as amended by the Constitution (Seventy-fourth Amendment) Act, 1992, based on the principles of participation in, and decentralization, autonomy, and accountability of, urban self-government at various levels, to improve the quality of life of the urban dwellers of Sikkim, to introduce reforms in financial management and accounting systems, to enhance internal resource generation capacity, to improve the organizational design of Municipalities, to ensure professionalization of the municipal personnel, and to provide for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India as follows:-

PART I

PRELIMINARY

Chapter I

Short title extend and commencement

1 (1) This Act may be called the Sikkim Municipalities Act, 2007.

(2) It extends to the whole of Sikkim except the cantonments.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf, and different dates may be appointed for different areas and for different provisions of this Act.

Definitions

2 In this Act, unless the context otherwise requires, -

(1) "agency" means a company, firm, society, or body corporate in the private sector, or any agency in the joint sector, or any agency under any other law for the time being in force, asmay be appointed appointed by theMunicipality to act as its agency on such terms and conditions as the Municipality may determine for any of the purposes of this Act;

(2) "Area Sabha" means an Area Sabha referred to in Section 26;

(3) "Auditor" means an Auditor appointed under Section 58, and includes any officer authorized by him to perform all or any of the functions of an Auditor under this Act;

(4) "backward class of citizens" means the class of citizens, not belonging to the Scheduled Castes or the Scheduled Tribes, who are backward either socially or educationally, and declared as such by the State Government by notification;

(5) "balance sheet" means the balance sheet prepared under Section 57;

(6) *"bazar"* means a *bazar* area as may be notified by the State Government;

(7) "bio-medical waste" means any waste generated during diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals;

(8) "bridge" includes a culvert;

(9) "budget estimate" means the budget estimate prepared under Section 49;

(10) "budget grant" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Municipality, and includes any sum by which such budget grant is increased or reduced by transfer from or to other heads in accordance with the provisions of this Act and the rules and the regulations made there under;

(11) "building" means a structure constructed for whatever purpose and of whatever materials, and includes the foundation, plinth, walls, floors, roofs, chimneys, fixed platforms, verandas, balconies, cornices or projections or part of a building or anything affixed thereto or any wall (other than a boundary wall of less than three metres inheight) enclosing, or intended to enclose, any land, sign or outdoor display-structure but does not include a tent, *shamiana* or tarpaulin shelter;

(12) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a jin-rickshaw, cycle-rickshaw, bicycle or tricycle, but does not include a perambulator or other form of vehicle designed for the conveyance of children or elderly, infirm or handicapped persons;

(13) "cart" means any cart, hackney or wheeled vehicle with or without springs, which is not a carriage, and includes a hand- cart, a cycle van and a push van, but does not include any wheeled vehicle which is propelled by mechanical power or its trailer;

(14) "category' post" means a category' A' post classified as such under Section 29;

(15) "category 'B' post" means a category 'B' post classified as such under Section 29;

(16) "Chief Councillor" means, -

(i) in relation to a Municipal Corporation, the Mayor,

(ii) in relation to a Municipal Council, the Municipal Chairperson, and

(iii) in relation to a Nagar Panchayat, the Municipal President;

(17) "Chief Municipal Officer" means, -

(i) in relation to a Municipal Corporation, the Municipal Commissioner, and

(ii) in relation to a Municipal Councillor Nagar Panchayat, the Municipal Executive Officer;

(18) "city" means a larger urban area declared to be a city under Section 3;

(19) "Councillor", in relation to a Municipality, means a person chosen by direct election from a ward of that Municipality;

(20) "cubical extent," with reference to the measurement of a building, means the space contained within the external surface of its walls and roof and the upper surface of the floor of its lowest or only storey;

(21) "Dangerous disease" means - (i) cholera, plague, small-pox, cerebrospinal meningitis, diphtheria, tuberculosis, leprosy, influenza, encephalitis, poliomyelitis, or syphilis; or (ii) any other epidemic, endemic, or infectious disease which the Government may, by notification, declare to be a dangerous disease for the purposes of this Act"

(22) "Deputy Chief Councillor" means, -

(i) in relation to a Municipal Corporation, the Deputy Mayor,

(ii) in relation to a Municipal Council, the Municipal Vice-Chairperson, and

(iii) in relation to a Nagar Panchayat, the Municipal Vice-President;

(23) "domestic purposes", in relation to the supply of water, means the purposes other than those referred to in Section 165.,

(24) "drain" includes a *jhora* or water-course of natural drainage line, a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water;

(25) "drug" means any substance used as medicine or in the composition or preparation of medicine, whether for internal or external use, but does not include a drug within the meaning of clause (b) of Section 3 of the Drugs and Cosmetics Act, 1940; (23 of 1940).

(26) "dwelling-house" means a masonry building constructed, used, or adapted to be used, wholly or principally for human habitation;

(27) "Establishment Schedule" means the Establishment Schedule prepared under sub-section (8) of Section 29;

(28) "Executive Authority" means the Executive Authority referred to in Section 20;

(29) "financial statement" means the financial statement prepared under Section 56;

(30) "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into, or is used in the composition or preparation of, human food, and also includes confectionery, flavoring and coloring matters, spices and condiments;

(31) "footpath" means a pavement for use by pedestrians which abuts a category I or category II or category III road;

(32) "habitable room" means a room constructed or adapted for human habitation;

(33) "hazardous wastes" means the hazardous substance as defined in clause (e) of Section 2 of the Environment (Protection) Act, 1986; (29 of 1986).

(34) "house-drain" means any drain of one or more premises used for the drainage of such premises;

(35) "house-gully" means a passage or a strip of land constructed, set apart or utilized for the purpose of serving as a drain or affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter for municipal employees or for persons employed in the cleaning thereof or removal of such matter there from, and includes the air space above such passage or land;

(36) "hut" means any building, no substantial part of which, excluding the walls up to a height of fifty centimeters above the floor or floor level, is constructed of masonry, reinforced concrete, steel, iron or other metal;

(37) "infectious disease" or "communicable disease" means any disease which may be transmitted from one person to another and declared as such by the State Government by notification;

(38) "larger urban area" means a municipal area classified as a larger urban area under Section 7;

(39) "land or building" includes a slum;

(40) "market" includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, vegetables, live stock, or any other article of food of a perishable nature, or any other article for which there is a collection of shops or warehouses or stalls, declared and licensed by the Municipality as a market;

(41) "masonry building" means any building, other than a hut, and includes

any structure, a substantial part of which is made of masonry, reinforced concrete, steel, iron or other metal and also includes a framed building;

(42) "milk" includes cream, skimmed milk, separated milk, and condensed, sterilized, desiccated or toned milk;

(43) "Municipal Accounting Manual" means the Municipal Accounting Manual prepared and maintained under Section 56;

(44) "Municipal Accounts Committee" means a Municipal Accounts Committee constituted under Section 67;

(45) "municipal area" means an area constituted as a municipal area under Section 6;

(46) "Municipal Court" means the Municipal Court created under Section 343;

(47) "municipal drain" means a drain vested in the Municipality;

(48) "Municipal Fund" means the Municipal Fund referred to in Section 39;

(49) "Municipality" means an institution of self-government constituted under section 12, read with article 243Q of the Constitution of India, and includes a Municipal Corporation, a Municipal Council, and a Nagar Panchayat, referred to in Section 13;

(50) "municipal market" means a market belonging to, or maintained by, the Municipality;

(51) "municipal slaughterhouse" means a slaughterhouse belonging to, or maintained by, the Municipality;

(52) "notification" means a notification published in the *Official Gazette,'*

(53) "nuisance" includes any act, omission, place or thing which causes, or is likely to cause, injury, danger, annoyance or offence to the sense of sight, smell or hearing, or disturbance to rest or sleep, or which is, or may be, dangerous to life or injurious to health or property;

(54) "occupier" includes any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or the building in respect of which the word is used or for damages on account of the occupation of such land or building, and also includes a rent-free tenant:

Provided that an owner living in, or otherwise using, his own land or building shall be deemed to be the occupier thereof;

(55) "Offensive matter" means kitchen or stable refuse, dung, dirt, putrid or putrefying substance, or filth of any kind which is not included in sewage;

(56) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as an agent or trustee for any person or society or for any religious or charitable purpose or as a receiver who would receive such rent if the land or the building or of any part of the land or the building were let to a tenant;

(57) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(58) "premises" means any land or building or part of a building or any hut or part of a hut, and includes -

(i) the garden, ground and outhouses, if any, appertaining thereto, and

(ii) any fittings or fixtures affixed to a building or part of a building or hut or part of a hut for the more beneficial enjoyment thereof;

(59) "prescribed" means prescribed by rules made under this Act;

(60) "presiding officer" means,-

(i) in the case of a Municipal Corporation, the Mayor,

(ii) in the case of a Municipal Council, the Municipal Chairperson, and

(iii) in the case of a Nagar Panchayat, the Municipal President;

(61) "private drain" means any drain which is not a municipal drain;

(62) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street, and includes any passage securing access to four or more premises belonging to the same or different owners, but does not include a passage provided in effecting a partition of any masonry building amongst joint owners where such passage is less than two meters and fifty centimeters wide;

(63) "public building" means a masonry building constructed, used, or adapted to be used, -

(i) as a place of public worship or as a school, college or other place of instruction (not being a dwelling- house so used) or as a hospital, workhouse, public theatre, public cinema, public hall, public concert-room, public ballroom, public lecture-room, public library or public exhibition room or as a public place of assembly, or

(ii) for any other public purpose, or

(iii) as a hotel, lodging-house, refuge or shelter, where the building, in cubical extent, exceeds seven thousand cubic metres or has sleeping accommodation for more than one hundred persons;

(64) "public street" means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not, over which the public have a right of way, and includes-

(i) the access or approach to a public ferry,

(ii) the roadway over any public bridge or causeway,

(iii) the footpath attached to any such street, public bridge or causeway,

(iv) the passage connecting two public streets, and

(v) the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, hedge or pillar of the premises, if any, abutting on the street, or, where a street alignment has been fixed, up to such alignment;

(65) "regulations" means the regulations made by a Municipality under this Act;

(66) "rules" means the rules made by the State Government under this Act;

(67) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;

(68) "smaller urban area" means a municipal area classified as a smaller urban area under section 7;

(69) "street" means a public street or a private street;

(70) "street alignment" means the line dividing the land comprised in, and forming part of, a street from the adjoining land;

(71) "ward" means an administrative division of a Municipality;

(72) "water-course" includes a river, stream or channel, whether natural or artificial

(73) "year" means a financial year beginning on the first day of April.

PART II

CONSTITUTION AND GOVERNMENT

Chapter II

Constitution of Municipal Areas and Classification of Municipalities

Declaration of intention to constitute a municipal area.

3 (1) The Governor may, after making such enquiry as he may deem fit, and having regard to the population of any urban area, the density of population therein, the revenue generated for the local administration of such area, the percentage of employment in non-agricultural activities in such area, the economic importance of such area, and such other factors as may be prescribed, by notification, declare his intention to specify such area to be a larger urban area, or a smaller urban area, or an area in transition from a rural area to an urban area referred to in this Act as a transitional area:

Provided that no such declaration shall be made unless the population, -

(a) in the case of a larger urban area, is seventy thousand or more,

(b) in the case of a smaller urban area, is five thousand or more but is less than seventy thousand, and

(c) in the case of a transitional area, is below five thousand:

Provided further that the non-agricultural population in each such area shall be fifty *per cent* or more.

Explanation. -"revenue generated for the local administration" shall not include-

(a) taxes, if any, distributed to the Municipality by the State Government in accordance with the principle of distribution of such taxes, referred to in article 243Y of the Constitution,

(b) loans and grants from the State Government, and

(c) loans and grants from the Central Government or any financial institution or other source.

(2) The Governor shall, by notification, declare an area specified as -

(i) a larger urban area to be a city,

(ii) a smaller urban area to be a town, and

(iii) a transitional area to be a Nagar Panchayat (by whatever name called).

(3) Notwithstanding anything contained in sub-section (1), the Governor may, by notification, determine separate conditions to constitute any eco-sensitive area, tourist centre, pilgrim center, or *bazar* of any class as a municipal area.

Publication of declaration.

4 (1) The notification about the constitution of a municipal area shall be published in the *Official Gazette* and in at least two leading newspapers, at least one of which shall be in vernacular intelligible to the inhabitants of the municipal area concerned.

(2) A copy of the notification shall also be pasted in a conspicuous place in the office of the District Collector of the district and, where there is a Municipality, also in the office of the Municipality, and in such other public places as the State Government may direct.

(3) A public proclamation about the constitution of a municipal area may, if the State Government considers it necessary so to do, be made either by beating of drum throughout the municipal area concerned or through any other publicity media.

Consideration of objection.

5. Any inhabitant of the city, town, or Nagar Panchayat, or any area referred to in sub-section (3) of section 3, in respect of which a notification has been published under section 4, may, if he objects to anything contained in the notification, submit his objection in writing to the State Government within one month from the date of its publication, and the State Government shall take such objection into consideration.

Constitution of municipal area.

6. On the expiry of one month from the date of publication of the notification and after consideration of all or any of the objections which may be submitted, the Governor may, by notification, constitute such city, town, or transitional area, or any area referred to in sub-section (3) of section 3, or such part thereof as may be specified in the notification, as a municipal area under this Act.

Classification of municipal areas.

7. The Governor may, for the purpose of application of the provisions of this Act, classify, on the basis of the population as ascertained at the last preceding census of which the relevant figures have been published, any municipal area as -

(a) a larger urban area having population of seventy thousand or more,

(b) a smaller urban area having population of five thousand or more but less than seventy thousand, and

(c) a transitional area having population below five thousand:

Provided that for the purpose of classification of municipal areas in any eco-sensitive area, tourist centre, pilgrim centre, or *bazar* of any class, the Governor may, by notification, determine a separate size of population for each class of such municipal area.

Power of State Government to determine the number of wards in municipal areas.

8. Subject to the provisions of sub-section (I) of section 10, until any law providing for the election of Councillors is enacted, the State Government may, having regard to population, dwelling pattern, geographical condition, and economic consideration of a municipal area, by notification, determine for such municipal area the number of wards, which shall be, -

(a) in the case of a larger urban area having population of seventy thousand or more, not more than eleven but not less than seven,

(b) in the case of a smaller urban area having population of five thousand or more but less than seventy thousand, not more than seven but not less than five, and

(c) in the case of a transitional area having population below five thousand, five.

Power to abolish or alter limits of municipal area.

9. The Governor may, by notification, -

(a) withdraw any municipal area or part thereof from the operation of this Act, or

(b) exclude from a municipal area any area comprised therein and defined in the notification, or

(c) include within a municipal area any area contiguous to such municipal area and defined in the notification, or

(d) divide any municipal area into two or more municipal areas, or

(e) unite two or more contiguous municipal areas so as to constitute one municipal area, or

(f) revise the boundary of two or more contiguous municipal areas:

Provided that the procedure laid down for the constitution of a municipal area under this Act shall be followed *mutatis mutandis* in each such case:

Provided further that the views of the Municipality affected by any such notification shall be invited by the State Government within such time as may be specified in the notification, and the State Government shall consider the views of the Municipality as aforesaid before a final declaration is made:

Provided also that no such notification shall be issued where any part of the municipal area or any area contiguous to the municipal area is a cantonment or part of a cantonment, as defined in the Cantonments Act, 1924.

(2 of 1924).

Power to exempt municipal area from operation of any provision of the Act unsuited thereto.

10. (1) The State Government may, by notification, and for reasons to be recorded in writing, exempt any smaller urban area or any area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 from the operation of any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such smaller urban area or area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3, as the case may be, until such provisions are applied thereto by notification.

(2) While a notification exempting any smaller urban area or any area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 from the provisions of this Act under sub-section (1) remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions from the operation of which the smaller urban area or the area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 as aforesaid is exempted. (3) Not withstanding any provisions in this act, the provisions of the land laws of the state shall prevail.

Chapter III

Municipality and Municipal Councillors

The Municipality.

11. (1) The Municipality shall consist of such number of elected Councillors as may be determined in accordance with the provisions of any law relating to municipal election in Sikkim.

(2) The Municipality shall be a body corporate with perpetual succession and a common seal, and may, by the name of the Municipality of the city or the town or the Nagar Panchayat, as the case may be, by reference to which the Municipality is known, sue and be sued.

(3) Subject to the provisions of this Act, the Municipality shall have the power to acquire, hold and dispose of property.

Constitution of Municipality

12. (1) The Councillors elected in a general election or by-election of a Municipality in accordance with the provisions of any law relating to municipal election in Sikkim, shall constitute the Municipality .

(2) The Municipality shall, unless dissolved earlier, continue for a period of five years from the date of its first meeting after the general election and no longer.

(3) An election to constitute a Municipality shall be completed-

(a) before the expiry of the period specified in sub-section (2) or

(b) before the expiry of a period of six months from the date of its dissolution, as the case may be :

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold a bye election for constituting the Municipality for such period.

(4) The Municipality constituted upon its dissolution before the expiration of the period specified in sub-section (2) shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (2) had it not been so dissolved.

(5) In a municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6, as may be necessary for holding elections.

(6) If, for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of five years specified in sub-section (2), the Municipality shall stand dissolved on the expiration of the said period, and all the powers and functions vested in the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such authority to be designated as Administrator as the State Government may, by notification, appoint.

Composition of Municipality.

13. Each Municipality shall consist of such number of Councillors as are specified in the Table below:

THE TABLE

Number of Councillors

Population Range	Minimum Number	One Additional Councillor for Incremental Number	Maximum Number
		Municipal Corporation	
70,000 or more	7	Every sixty five thousand above seventy thousand	11
		Municipal Council	
5,000 or more but less than 70,000	5	Every thirty two thousand five hundred above five thousand	7
		Nagar Panchayat	
3,000 or more but below 5,000	5	.....	5

Election of Councillors.

14. Notwithstanding anything contained in this Act, the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, elections of Councillors shall be vested in the State Election Commission constituted under the provisions of any law relating to municipal election in Sikkim.

Reservation of seats of Councillors and Chief Councillor

15. (1) The State Government shall, by notification, reserve seats for the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens in every Municipality, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens in the municipal area of that Municipality bears to the total population of that area, and such seats may be allotted by rotation to different wards of that Municipality, at such interval, and in such manner, as may be specified in the notification.

(2) Not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes, or the Scheduled Tribes, or the backward class of citizens, or the most backward class of citizens, as the case my be.

(3) Not less than one-third of the total number of seats (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens) to be filled by direct election in every Municipality shall be reserved for women, and such seats may be allotted by rotation to different wards in such Municipality in such manner as may be specified in the notification under sub-section (1).

(4) Notwithstanding anything contained in the foregoing provisions of this section, the office of the Chief Councillor in the Municipality shall be reserved by rotation for the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, the most backward class of citizens, and women to such extent, and in such manner, as may be prescribed.

Oath of allegiance to the Constitution of India and oath of secrecy.

16. (1) Every person who is elected as a Councillor shall, before taking his seat, make and subscribe an oath or affirmation of his allegiance to the Constitution of India in such Form, and in such manner, as may be prescribed.

(2) The Chief Councillor shall assume office after taking an oath of secrecy in such Form, and in such manner, as may be prescribed.

(3) If any person, having been elected a Councillor, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), such person shall cease to hold his office, and his seat shall be deemed to have become vacant.

Term of office of Councillors.

17. Subject to the provisions of sub-section (3) or sub-section (4), as the case may be, of Section 12, a Councillor shall hold office for a period of five years from the date of the first meeting of the Municipality under Section 28, or, in the case of a Councillor chosen to fill a casual vacancy, for the remainder of the term of office of his predecessor, unless -

(a) the Municipality is dissolved earlier, or

(b) he resigns his office by notice, in writing, under his hand addressed to the Chief Councillor, and, thereupon, his office shall become vacant from the date of the notice, or

(c) his election is void, or is declared to be void, under the provisions of any law relating to municipal election in Sikkim for the time being in force, or

(d) the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under clause (a) of Section 9.

Disqualification for being a Councillor, if employed in a Municipality.

18. No employee of a Municipality shall be eligible to contest an election to become a Councillor of that Municipality or any other Municipality.

Remuneration and allowances of Councillors.

19. The Chief Councillor and the other Councillors may receive such remuneration and allowances as may be prescribed:

Provided that different rates may be prescribed for different classes of Municipalities.

Chapter IV

Municipal Authorities and Executive Authority

Municipal authorities and Executive Authority.

20 (1) The municipal authorities for the purpose of giving effect to the provisions of this Act shall be,

(a) in the case of a larger urban area, -

(i) the Municipal Corporation,

(ii) the Executive Authority, and

(iii) the Mayor;

(b) in the case of a smaller urban area, -

(i) the Municipal Council,

(ii) the Executive Authority, and

(iii) the Municipal Chairperson;

(c) in the case of a transitional area, -

(i) the Nagar Panchayat,

(ii) the Executive Authority, and

(iii) the Municipal President.

(2) The presiding officer of the Municipality shall be, in the case of-

(a) the Municipal Corporation, the Mayor,

(b) the Municipal Council, the Municipal Chairperson, and

(c) the Nagar Panchayat, the Municipal President.

(3) The Executive Authority of every Municipality shall consist of-

(a) the Chief Councillor,

(b) the Deputy Chief Councillor, and

(c) such other Councillor as may be elected by the Councillors.

(4) The Chief Councillor and the Deputy Chief Councillor shall be entitled to such remuneration and perquisites as may be determined by the State Government.

Executive and financial powers of Municipality to be exercised by Executive Authority.

21. (1) Subject to the provisions of this Act and the rules, and the regulations, made thereunder, the executive and financial powers of a Municipality shall be exercised by the Executive Authority.

(2) All executive actions of the Executive Authority shall be expressed to be taken in the name of the Municipality.

Execution of works, sanction of estimates, and contracts.

22. (1) The Executive Authority may determine, either generally or for any class of cases or specially for any particular case, whether the Chief Municipal Officer shall execute any work by a contract or otherwise.

(2) (a) When a project is framed for the execution of any work or series of works, the Chief Municipal Officer shall cause a detailed report to be prepared stating the scope of the project, its techno-economic viability, and its social benefits, and shall prepare an estimate.

(b) In the case of a Municipal Corporation, the sanctioning authority in respect of such estimate shall be -

(i) the Chief Municipal Officer, if the amount does not exceed five lakhs of rupees,

(ii) the Executive Authority, if the amount exceeds five lakhs of rupees but does not exceed one crore of rupees, and

(iii) the Municipal Corporation, if the amount exceeds one crore of rupees.

(c) In the case of a Municipal Councillor a Nagar Panchayat, the State Government may specify different limits in respect of such estimate.

(d) In respect of an estimate for any other item of expenditure, the Chief Municipal officer, the Executive Authority, and the Municipality shall respectively be the sanctioning authority in respect of the amount mentioned in sub-clause (i), sub- clause (ii), and sub-clause (iii), of clause (b).

(3) (a) Subject to the other provisions of this Act, the Municipality may enter into and execute all such contracts as it may consider necessary or expedient under, or for any of the purposes of, this Act.

(b) Every contract under clause (a) shall be subject to the following provisions:-

(i) every contract shall be executed on behalf of the Municipality by the Chief Municipal Officer or such other officer of the Municipality as the Executive Authority may direct or authorize from time to time,

(ii) no such contract as cannot, under any provision of this Act, be entered into without the approval or sanction of any authority or officer under this Act shall be entered into by any officer referred to in sub-clause (i) until and unless such approval or sanction has been duly obtained,

(iii) no contract involving an expenditure exceeding ten thousand rupees or such higher amount as the Executive Authority may fix shall be entered into by any officer referred to in sub-clause (i) unless the same has been previously approved by the Executive Authority, and

(iv) every contract involving an expenditure exceeding two thousand rupees but not exceeding ten thousand rupees or such higher amount as may be fixed under sub-clause (iii), entered into by an officer referred to in sub-clause (i), shall be reported by such officer to the Executive Authority within one month of such contract.

(4) (a) The manner of execution of contracts under this Act shall be determined by regulations.

(b) No contract which is not entered into in accordance with the provisions of this Act or any regulation made thereunder shall be binding on the Municipality.

Election of Chief Councillor and term of his office.

23. (1) The Councillors shall, in the first meeting under section 28, elect in accordance with such procedure as may be prescribed one of the Councillors to be the Chief Councillor, who shall assume office forthwith after taking the oath of secrecy under section 16.

(2) If the Councillors fail to elect a Chief Councillor under sub- section (1), the State Government shall, within seven days from the date of the first meeting as aforesaid, appoint by name one of the Councillors to be the Chief Councillor.

(3) In the case of any casual vacancy in the office of the Chief Councillor caused by death, resignation, removal, or otherwise, the Councillors shall, in accordance with such procedure as may be prescribed, elect one of the Councillors to fill up the vacancy.

(4) The term of office of the Chief Councillor shall be coterminous with the duration of the Municipality.

Chief Councillor

24. (1) The Chief Councillor shall cease to hold office as such if he ceases to be a Councillor.

(2) The Chief Councillor may, at any time, by giving a notice, in writing, to the Municipality, resign his office, and such resignation shall take effect from such date as may be specified in the notice or, if no such date is specified, from the date of its receipt by the Municipality.

(3) The Chief Councillor may be removed from office by a resolution carried by a majority of the total number of Councillors holding office for the time being at a special meeting to be called for this purpose upon a requisition made in writing by not less than one-third of the total number of Councillors:

Provided that no such resolution shall be moved before the expiry of six months from the date of entering office by the Chief Councillor, and if such resolution is not carried by a majority of the total number of Councillors, no further resolution for such purpose shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

Deputy Chief Councillor.

25 (1) The Deputy Chief Councillor shall be elected by the Councillors from amongst themselves:

Provided that the Deputy Chief Councillor may resign by a letter, in writing, addressed to the Chief Councillor.

(2) The Deputy Chief Councillor shall, in the absence of the Chief Councillor, preside over the meetings of the Municipality.

(3) When-

(a) the office of the Chief Councillor falls vacant by reason of death, resignation, removal or otherwise, or

(b) the Chief Councillor is, by reason of leave, illness or other cause, temporarily unable to exercise the powers, or perform the functions, or discharge the duties, of his office, under this Act,

the Deputy Chief Councillor shall exercise the powers, perform the functions, and discharge the duties, of the Chief Councillor until a Chief Councillor is elected under sub-section (3) of section 23 and enters upon his office or until the Chief Councillor resumes his duties.

(4) The Deputy Chief Councillor shall, at any time, exercise such other powers, perform such other functions, and discharge such other duties, as may be delegated to him under the provisions of this Act.

(5) The Deputy Chief Councillor may be removed from Office in the same manner as is provided in sub-section(3) of section 24 for the removal of the Chief Councillor.

Area Sabha.

26. (1) Each ward of a Municipality shall have an Area Sabha.

(2) The Councillor elected from a ward shall be the chairperson of the Area Sabha for that ward.

(3) The composition of the Area Sabha, the representation of various interest groups therein, and the functions thereof, shall be such as may be prescribed.

Constitution of Subject Committee, *Ad hoc* ***Committee, or Joint Committee.***

27. (1) Subject to such directions as the State Government may give from time to time, a Municipal Corporation may constitute a Subject Committee consisting of Councillors to deal with the following matters, namely :-

(a) water-supply, drainage and sewerage, and solid waste management,

(b) urban environment management and land use control, and

(c) slum services.

(2) A Municipal Corporation, or a Municipal Council, or a Nagar Panchayat, singly or jointly, may constitute an Ad hoc Committee or a Joint Committee to perform such functions as the State Government may direct.

First meeting of Municipality.

28. (1) the first meeting of a Municipality after the general election of Councillors to the Municipality shall be convened within thirty days from the date of publication of the names of the elected Councillors in the *Official Gazette* under the provisions of any law relating to municipal election in Sikkim.

(2) Seven days' notice shall be given for the meeting.

(3) In the case of a Municipal Corporation, the meeting shall be convened by the Secretary to the State Government in charge of Urban Development and Housing Department or any other officer not below the rank of a Deputy Secretary to the State Government, duly authorized by him.

(4) In the case of a Municipal Councillor a Nagar Panchayat, the meeting shall be convened by such officer of the Urban Development and Housing Department of the State Government as may be authorized by the Secretary of that Department.

Chapter V

Organizational Structure of Municipality

Statutory officers of Municipality, Establishment of Municipality and schedule of posts.

29. (1) Having regard to the need for ensuring maximum possible economy in municipal administration and subject to the prior approval of the State Government, the Municipal Corporation may have a Chief Municipal Officer and other officers to deal with all or any of the functions relating to finance and accounts, health, sanitation, architecture and town planning, engineering, administration, law, fire services, urban forestry, parks, gardens, playgrounds, promotion of cultural, educational and aesthetic aspects, cattle pounds, prevention of cruelty to animals, and internal audit.

(2) Appointment of Chief Municipal Officer referred to in sub- section (1) may be made either on a regular basis or on deputation from the State Government or any agency of the State Government or on a contract basis for such term, not being less than three years, as the State Government may consider necessary.

(3) The method of, and the qualifications required for, recruitment, and the terms and conditions of service including conduct, discipline and control, of other officers appointed under sub- section (1) shall be such as may be prescribed.

(4) The State Government may appoint an officer of that Government, or any other person, possessing such qualifications as may be determined by that Government for a Municipal Councillor class of Municipal Councils or Nagar Panchayats as Chief Municipal Officer, Municipal Finance- cum-Accounts Officer, Municipal Engineer, or Municipal Health Officer, or any other officer with such designation as the State Government may consider necessary, and in such manner, and on such terms and conditions of service, as the State Government may determine in this behalf, to deal with all or any of the functions referred to in sub-section (1).

(5) At the requests of the Chief Councillors of more than one Municipality, the State Government may, by order, provide for sharing of services of officers referred to in sub-section (4) by such Municipalities, and on such terms and conditions, as may be specified in the order.

(6) The posts of officers and other employees of the Municipality, other than those referred to in sub-section (1) and sub-section (4), shall constitute the Establishment of the Municipality.

(7) The State Government shall, by rules,. classify the posts of officers and other employees constituting the Establishment of the Municipality into two categories, namely, category 'A' post and category 'B' post, on the basis of the scales of pay of such posts.

(8) The Municipality shall prepare, and maintain, a schedule of posts of officers and other employees constituting the Establishment of the Municipality, to be called Establishment Schedule, and such Establishment Schedule shall include the designation, and the number of posts under each designation.

(9) Every year the Chief Municipal Officer shall place before the Chief Councillor for his consideration the Establishment Schedule along with the proposals for such changes therein as he may consider necessary:

Provided that no upward revision of the size of the Establishment of the Municipality shall be made without the prior approval of the State Government.

(10) The Chief Councillor shall, after consideration of the Establishment Schedule along with the proposals, if any, for changes therein, place the same along with his recommendations, if any, before the Municipality prior to the presentation of the budget estimates to the Municipality by the Chief Councillor, and shall cause a copy of the Establishment Schedule to be sent to the State Government for approval.

(11) The Chief Municipal Officer shall revise the Establishment Schedule as approved by the State Government.

(12) No person above the age of sixty years shall be appointed to any post under a Municipality.

Payment of salaries and allowances to officers and other employees.

30. Payment of salaries and allowances to the officers including the statutory officers and other employees of the Municipality shall be made from such Fund as the State Government may, by notification, specify from time to time.

Chapter VI

Functional Domain of Municipalities

Core municipal services and other

31. (1) Every Municipality shall-

(a) provide on its own or arrange to provide through the State Government or any agency of the State Government or any other agency the following core municipal services :-

(i) water-supply for domestic, industrial, and commercial purposes,

(ii) sewerage and drainage,

(iii) solid waste management,

(iv) communication systems including construction and maintenance of roads, footpaths, pedestrian pathways, transportation terminals (both for passengers and goods), bridges, over- bridges, and subways,

(v) transport system accessories including traffic engineering schemes, street furniture, street lighting, parking areas, and bus stops,

(vi) community health and protection of environment including planting and caring of trees on road sides and elsewhere,

(vii) *bazars*, and

(viii) slaughterhouses, and

(b) perform such other statutory or regulatory functions as may be provided by or under this Act or under any other law for the time being in force.

(2) The Municipality may, having regard to its managerial, technical, financial, and organizational capacity, and the actual conditions obtaining in the municipal area, decide not to provide any of the core municipal services as aforesaid.

(3) The State Government may direct a Municipality to provide any of the core municipal services as aforesaid, if such services are not being provided by the Municipality.

(4) The Municipality may plan, build, operate, maintain, or manage the infrastructure required for providing any of the *core* municipal services as aforesaid and for harvesting of rain water, either by itself or by the State Government or by any agency of the State Government.